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24 *Class Counsel for Direct Purchaser Plaintiffs
25 and Counsel for Plaintiff Chip-Tech, Ltd.*

26 UNITED STATES DISTRICT COURT

27 NORTHERN DISTRICT OF CALIFORNIA

28 IN RE CAPACITORS ANTITRUST LITIGATION

Master File No. 3:14-cv-03264-JD
Case No. 3:15-cv-03868-JCS

29 THIS DOCUMENT RELATES TO:

**DIRECT PURCHASER PLAINTIFFS'
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

30 ALL DIRECT PURCHASER CLASS ACTIONS

[Local Rule 3-12]

31 Chip Tech, Ltd., On Behalf Of Itself and All
32 Others Similarly Situated,

Lodged in Case Nos. 5:15-cv-3820 and 5:15-cv-3907

33 Plaintiff,

34 v.

35 AVX Corporation; KEMET Corporation; KEMET
36 Electronics Corporation; KOA Corporation; KOA
37 Speer Electronics, Inc.; Panasonic Corporation,
38 Panasonic Corporation of North America; Panasonic
39 Electronic Devices Co. Ltd; Panasonic Electronic
40 Devices Corporation of America; ROHM Co., Ltd.;
41 ROHM Semiconductor U.S.A. LLC; SANYO

Master File No. 3:14-cv-03264-JD
Case No. 3:15-cv-03868-JCS

1 Electric Co., Ltd.; SANYO North America
2 Corporation; TDK Corporation; TDK-EPC
3 Corporation; TDK U.S.A. Corporation; Vishay
4 Intertechnology, Inc.,

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Defendants

1 PLEASE TAKE NOTICE that, pursuant to Civil Local Rules 3-12 and 7-11, Plaintiff Chip-Tech
 2 Ltd. (“Plaintiff”) submits this administrative motion requesting that the Court consider whether two other
 3 antitrust class actions filed in this District should be related.

4 **BACKGROUND**

5 Plaintiff is a Direct Purchaser Plaintiff in the above-captioned *In re Capacitors Antitrust Litigation*,
 6 Master File No. 3:14-cv-03264-JD (the “*Capacitors Antitrust Litigation*”) and filed the complaint initiating
 7 the litigation on July 18, 2014. *See* Dkt. 1. On August 24, 2015, Plaintiff filed a class action complaint in this
 8 District entitled *Chip-Tech, Ltd. v. AVX Corporation, et al.*, Case No. 15-cv-03868-JCS (“*Chip-Tech*”). As
 9 alleged, Chip-Tech brings the action as an individual and representative plaintiff on behalf of a nationwide
 10 class of purchasers of resistors. On behalf of itself and the class it seeks to represent, Chip-Tech seeks
 11 damages under the federal antitrust law, 15 U.S.C. § 1, and other relief.

12 Plaintiff filed a motion to relate the *Chip-Tech* action to this litigation on August 28, 2015. *See* Dkt.
 13 859.

14 On August 20, 2015 Microsystems Development Technologies, Inc. filed an antitrust class action
 15 seeking to represent a putative class of indirect purchasers of resistors. *See* Exhibit 1 (*Microsystems* action).
 16 On August 26, 2015 Top Floor Home Improvements also filed an antitrust class action seeking to represent
 17 a putative class of indirect purchasers of resistors. *See* Exhibit 2 (*Top Floor* action).

18 **LEGAL STANDARD**

19 Civil Local Rule 3-12(a) provides that actions are related when (1) the actions concern substantially
 20 the same parties, property, transaction or event; and (2) it appears likely that there will be an unduly
 21 burdensome duplication of labor and expense or conflicting results if the cases are conducted before
 22 different judges.

23 **ARGUMENT**

24 The *Microsystems* and *Top Floor* actions should be deemed related to this litigation for the same
 25 reasons the *Chip-Tech* action should be deemed related to this litigation. *See* Dkt. 859. The *Capacitors*
 26 *Antitrust Litigation*, like the *Chip-Tech*, *Microsystems*, and *Top Floor* matters, allege cartel activity with
 27 respect to passive electronic components; name many of the same defendants; and allege violations
 28 of the same federal statute, Section 1 of the Sherman Act, 15 U.S.C. §1..

1 Both resistors and capacitors are basic components of electric circuit boards that are ubiquitous
 2 in electronic products such as televisions and computers. Dkt. 799 at ¶¶ 2-3; *Microsystems* Complaint ¶¶
 3 1-3; *Top Floor* Complaint ¶¶ 1-4. Capacitors and resistors have many common characteristics that make
 4 the markets for these products prone to collusive cartel activity, such as interchangeability and
 5 commoditization of the products; high barriers to entry; inelasticity of demand; a mature and highly-
 6 concentrated market facing declining demand; an excess of manufacturing capacity; and a large number
 7 of purchasers with limited purchasing power. Dkt. 799 at ¶¶ 318-361; *Microsystems* Complaint ¶¶ 52-73;
 8 *Top Floor* Complaint ¶¶ 58-82.

9 The Department of Justice is investigating cartel activity in the resistors industry. This
 10 investigation appears to be related to its ongoing investigation of the capacitors industry. Indeed, as
 11 alleged, defendant Panasonic Corporation has applied for leniency under the U.S. Department of
 12 Justice's ("DOJ's") ACPERA program for DOJ investigations related to both capacitors and resistors.
 13 See Dkt. 799 at ¶¶ 375-376; *Microsystems* Complaint ¶¶ 7-8; *Top Floor* Complaint ¶¶ 38-39. There are
 14 common defendants in the *Capacitors Antitrust Litigation* and the *Microsystems* and *Top Floor* actions as
 15 many of the same entities manufacture, sell and distribute resistors and capacitors. Defendant Panasonic
 16 Corporation, and various of its subsidiaries, are named as defendants in both this litigation and in the
 17 *Microsystems* and *Top Floor* actions. See Dkt. 799 at ¶¶ 32-36; *Microsystems* Complaint ¶¶ 37-39; *Top*
 18 *Floor* Complaint ¶¶ 22-24. The *Microsystems* and *Top Floor* actions and this action also have many other
 19 named defendants in common: AVX Corporation; KEMET Corporation; KEMET Electronics
 20 Corporation; ROHM Co., Ltd.; ROHM Semiconductor U.S.A. LLC; and Vishay Intertechnology, Inc.
 21 See Dkt. 799 at ¶¶ 40-44, 60-61, 76, 79-81; *Microsystems* Complaint ¶¶ 44-46; *Top Floor* Complaint ¶¶
 22 29-31.¹ Many of the same law firms will likely represent these defendants in both of these actions.

23 Likewise, many of the direct purchasers of capacitors and resistors are the same, because many
 24 of the same firms purchase both capacitors and resistors from the defendants named in both actions.
 25 Thus, there is substantial overlap among class members.

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28 ¹ The TDK-EPC Corporation and TDK U.S.A. Corporation, defendants in the *Chip-Tech* Complaint,
 were named as Defendants in the *Capacitors Antitrust Litigation*. See Dkt. 401 at ¶¶ 89-90.

1 In addition to the similarities between capacitors and resistors, the *Microsystems* and *Top Floor*
 2 actions and the instant litigation seek damages for violations of Section 1 of the Sherman Act for cartel
 3 activity by the defendants. Dkt. 799 at ¶¶ 433-443; *Microsystems* Complaint ¶¶ 122-132; *Top Floor*
 4 Complaint ¶¶ 137-147. The cartel activity in the *Microsystems* and *Top Floor* actions and the instant
 5 litigation was conducted using trade association membership, which is common to both manufacturers
 6 of resistors and capacitors, and both actions allege activity relating to the same trade associations. Dkt.
 7 799 at ¶¶ 362-370; *Microsystems* Complaint ¶¶ 74-77; *Top Floor* Complaint ¶¶ 83-89.

8 Due to the factual and legal similarities outlined above, the *Microsystems* and *Top Floor* actions
 9 should be related to the *Capacitors Antitrust Litigation* under Local Rule 3-12(a). This instant action
 10 concerns many of the same parties named in the *Microsystems* and *Top Floor* actions, and concerns
 11 similar allegations of cartel activity and violations of the same federal statute, 15 U.S.C. § 1. The
 12 *Microsystems* and *Top Floor* actions will likely benefit from the substantial law and motion practice,
 13 discovery planning and case management to date in this matter. There will also be litigation efficiencies
 14 created should these actions proceed before the same Court. Accordingly, Direct Purchaser Plaintiffs
 15 submit that there will be an “unduly burdensome duplication of labor and expense or conflicting results
 16 if the cases are conducted before different Judges.” Local Rule 3-12(a)(2).

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 19 Dated: September 4, 2015

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